

IN THE MATTER OF
THE ONTARIO HUMAN RIGHTS CODE

R.S.O. 1980, c. 340, as amended

- and -

IN THE MATTER OF

A complaint made by Mr. Mohan Bains, of Kitchener, Ontario
alleging discrimination in employment by Ontario Hydro,
Tiverton, Ontario.

BOARD OF INQUIRY

Professor Ian A. Hunter

Appearances

Mr. John A.M. Judge

Counsel for Mr. Mohan Bains
and the Ontario Human Rights
Commission

Mr. Bruce Stewart, Q.C.

Counsel for the respondents,
Ontario Hydro

DECISION

On 21 October 1981 I was appointed a Board of Inquiry by the Honourable Robert Elgie, then Minister of Labour, to hear and decide the complaint of Mr. Mohan Bains alleging discrimination in employment by Ontario Hydro. Hearings were held in Toronto on May 13 and 14, and on June 21 and 22, 1982.

Mohan Singh Bains was born in Mahilpur, India on April 8, 1939. He was educated in the Punjab receiving a Bachelor of Science degree from Punjab University in 1961 and a Bachelor of Law degree from the same institution in 1965. He worked in mining construction in India and as general manager of a public transit company. In 1976 he emigrated with his family (his wife and three children) to Canada and, in 1979, he became a Canadian citizen.

His first Canadian employment was as an assembler at Guelph Engineering Company. He held this job for 18 months until he was laid off. From April 1978 until November 1978, he worked at DeHavilland Aircraft.

Finding his lack of Canadian experience a handicap, Mr. Bains decided to enrol in the Welding Engineering Technicians' Program at Conestoga Community College in September 1977. In order to support his family, he continued to work (full-time throughout first year, part-time in second year) and, despite a hectic schedule of work and study, he excelled in his studies graduating with an A average and receiving an award for academic achievement. He received his official Diploma from the College on

September 29, 1979.

Mr. Bains entered the course at Conestoga with the prospect in mind of obtaining employment on graduation with Ontario Hydro. Of course, Ontario Hydro made no assurances but it was a fact that Ontario Hydro hired from the graduates of that program and, early in his studies, Mr. Bains was advised by the college placement office that he had a good chance of a job with Ontario Hydro if he excelled in his studies. A review of his academic transcripts establishes beyond question that he did excel.

It should be noted that Mr. Bains studied English in India. Having listened to him give evidence for several hours, and subject to cross-examination for several more hours, I would describe his vocabulary as extensive, his spoken English as grammatically correct although sometimes difficult to understand. This difficulty, in part, stems from his accent, but, more importantly, from a tendency on occasion to mumble in a low voice. I mention this because it becomes relevant when considering the evidence of Mr. Charles Wallis and Mr. Glen Stafford to be discussed later.

During Mr. Bains program of studies at Conestoga, representatives from Ontario Hydro came to the College to discuss employment prospects at Hydro. The nature of the work in both mechanical maintenance and construction was discussed. By the conclusion of his welding engineering technicians' program, the complainant had decided that he wished to specialize

in the area of non-destructive inspection. This would involve testing the safety and soundness of welds by non-destructive means; specifically visual, liquid penetrant, magnetic particle, radiography and ultrasonics. To become such a specialist requires, in addition to the basic training provided by Conestoga College in the Diploma program, on-the-job training of a kind which an organization like Ontario Hydro is able to provide.

In May, 1979 Conestoga College posted a job advertisement for welding technicians with Ontario Hydro at the Bruce plant. The contact person was specified as Mr. Glen Stafford, assistant personnel manager, and the starting date was June 1979. Interested applicants were to complete a standard Ontario Hydro application form and then to "phone for interview immediately." On May 10, 1979 Mr. Bains sent a completed application form to Ontario Hydro, together with a covering letter addressed to Mr. Stafford, and a typed resume.

At this point, I should pause to note that the complaint of discrimination which Mr. Bains filed with the Ontario Human Rights Commission and which it is my duty to hear and decide (Exhibit #1) alleges discrimination on the basis of "...race, colour, age, nationality, ancestry and place of origin." No evidence whatsoever was led which would establish discrimination on the basis of race, colour, nationality, ancestry or place of origin. Accordingly, I dismiss the allegation of discrimination on those grounds and turn to the sole remaining



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question; viz, whether or not Mr. Bains was discriminated against by Ontario Hydro because of his age.

Under the heading "Personal Information," the resumé which Mr. Bains forwarded to Ontario Hydro on May 10, 1979 specified his age as forty. Also, the Ontario Hydro "Application for Employment" requires the applicant to specify "Date of Birth." So there can be no doubt that from the time of first receiving Mr. Bains's application, the personnel officers of Ontario Hydro were in a position to know Mr. Bains's age. On the particular form (hereafter Form A - Exhibit #7) his date of birth is specified as "4-5-1939" and the year 1939 is underlined. It was admitted that this date was underlined by Mr. Charles Wallis, the Quality Control Supervisor of Welding at Ontario Hydro, Bruce.

On a second copy of the Ontario Hydro application form (hereinafter Form B - Exhibit #7) the date of birth is again specified as 4-5-1939; this time the year 1939 has been circled and two lines extend from the circle to adjacent boxes on the form dealing with height and weight.

In support of its allegation of age discrimination, the Commission relies on the cumulative effect of four items of evidence: I shall first examine each separately because the cumulative effect must depend on the probative value of each link in the chain.

(1) Sequence of interviews

Mr. Bains first applied on May 10, 1979. That application was received by the Personnel Department at Bruce on May 14, 1979. When he heard nothing in response, he attended at the Placement Office at Conestoga College. An employee there promised to look into the matter and suggested to Mr. Bains that he come back and see her again. A few days later, he reattended and was told by this same employee that Hydro officials in Bruce were going through the process of hiring, sorting applicants, interviewing, etc.

This was so, as the evidence of Hydro officials verified. At the time, Ontario Hydro had two junior level (i.e. Welding Technician II) positions available and they received eleven applications, ten from classmates of Mr. Bains graduating in the Conestoga College program.

Essentially, Mr. Wallis and Mr. Stafford had made a quick scan of these eleven applications and then divided them into interview groups: the first five applicants (Valeriote, Stewart, Zago, Law and Gustin) were interviewed on June 5, 1979; two more (Vanderheyden and Champagne) were interviewed the following day (June 6); and a further four applicants, including Mr. Bains were interviewed on June 12, 1979.

At the hearing, Mr. Judge contended that there was evidence of discrimination in the fact that Mohan Bains was in the third and last group to be interviewed and that this reflected a

discriminatory attitude against him because of his age. I do not accept this. Both Mr. Wallis and Mr. Stafford several times described the ordering of applicants to be interviewed as "random." True, they did quickly scan the application forms before ordering the interviews, but I find it was done more to coordinate the number of applicants to the available interview slots than to "rank" the applicants in any way. Wallis and Stafford had already decided that, in all probability, they would interview all eleven since there was little to choose between them on paper (all were recently community college graduates, ten of the eleven from Conestoga).

If one attempts, for example to correlate the grades of the applicants to the order in which they were interviewed, the conclusion that this was indeed a random ordering is fortified. Three of the eleven applicants had A grades: Gustin was interviewed in the first group; Vanderheyden in the second, and Bains in the third. Chuck Valeriote, from whom no grades were available, was nevertheless among the first group interviewed. Similarly, with experience: Gustin, who had no relevant work experience, was interviewed in the first group. Valeriote who had two years' experience as a pipe inspector was also interviewed in the first group. But Leonard Kelly who had previous work experience as a MIG welder was interviewed in the third group, along with the complainant. And Vanderheyden, who had no work experience even remotely relevant to the position, was interviewed second.

Nor does the evidence indicate that any prejudice or disadvantage flowed to anyone from the order in which they were interviewed. Rather the evidence established that Ontario Hydro had two positions at the Field Tec II available. One went to Robert Gustin (who was in the first group interviewed on June 5, 1979); the other went to Leonard Kelly who was in the third group interviewed, along with the complainant, on June 12, 1979.

Consequently, I draw no adverse inference from the fact that Mr. Bains was interviewed in the third group rather than the second or first. Even if I am wrong in this, I am satisfied from the evidence that there was no disadvantage flowing from the order in which applicants were interviewed.

(2) Comments made by Mr. Glen Stafford during the June 12, 1979 interview

Mr. Bains had two interviews at Ontario Hydro, Bruce on June 12, 1979; the first interview was conducted by Mr. Glen Stafford and was of a general nature, dealing with personal history, education, experience, aspirations, and the like. The second interview, on the same date, was conducted by Mr. Charles Wallis, the Quality Control Supervisor of welding at Bruce; another individual, John Morgan a Field Tec V, was also present. This interview was of a more technical nature, rather in the nature of an oral examination of the applicant's expertise.

The Wallis interview, chronologically second, may be shortly disposed of. Mr. Bains testified that the questions were technical in nature and that he answered them to the best of his ability. On some questions, Mr. Bains acknowledged that his answers may not have been fully accurate. Nevertheless, he took no objection then or now to the fairness of that particular interview. In cross-examination, Mr. Bains testified:

"Q: Well, throughout the interview, did he comment at all on your ability to speak English?

A: No, Sir.

Q: Did he comment on your accent at all?

A: No, Sir.

Q: And during the interview, did he ask any questions which you thought reflected on your age?

A: No, Sir.

Q: Did he ask any questions which you think reflected on your race or ancestry?

A: No, Sir."

And later: "My question is, and I will put it to you in a very positive statement: that there was nothing to cause you any suspicion at the interview?

A: During the interview, no.

Q: During the interview, right?

A: Yes.

Q: And I had the impression from what you said that you got a good interview?

A: Yes, that's the way I felt.

Q: And I take it from that, that being a good interview, the questions were fair?

A: By Mr. Wallis?

Q: Yes.

A: Yes, they were." (Transcript; Volume 1, pp. 153-4; p. 163).

The first interview, conducted by Mr. Glen Stafford, dealt with more general topics. Mr. Bains found objectionable certain questions which Mr. Stafford is alleged to have asked and from which I am asked to infer a discrimination. The questions-- or perhaps question--were described in different ways by Mr. Bains in examination-in-chief: set out below are various statements made by Mr. Bains.

(a) "Questions mostly asked by him were of a general nature, like about my family background, my education, how I feel in Canada, and also related to my past experiences, and then how I felt doing full-time job and going full-time to school; whether I feared heights or not; whether I will be able to adjust to camp life or not; whether my wife will agree to that or not.

Most of their technicians are of younger age group; how will I be able to adjust to that kind of group." (Transcript; Volume 1; p. 140).

(b) "He did say that, 'you had been working at a much higher level. Will it be possible for you to get yourself adjusted working at a junior technician's level?'

And I told him, 'Well, I am working as an assembler, a semi-skilled job; and in my opinion, even junior level technician is better placed that way than an assembler.' And I also told him that I don't take it that way, that I will be having a junior technician level job and staying with that. I know Ontario Hydro has training programmes for their people to go up and there are always openings for properly trained people, and I am looking forward to that.

Q: Did he comment at all on your response to him?

A: Well, he did comment in a business-like manner that that's very good; that's a good attitude." (Transcript; Volume 1; p. 144)

(c) "Q: Now, you mentioned that you talked about camp life, and you have touched on that in the context of talking about your family. Apart from what you have already told me about camp life, can you tell me if there was any other discussion about camp life or adjusting to camp life?

A: Well, there was--actually, he wanted to tell me what kind of life people here in camp have, but some of the concerns, the way I look at it, were about whether I would be able to adjust myself with those junior level technicians who might be quite younger to me in age." (Transcript; Volume 1, p. 145-6.)

(d) "Q: Was there any comment, or any question asked by Mr. Stafford that related to the age of the other people at the camp or on the job?

A: No, not at the time. But about the job, he did want to know how I will react to working with other people who haven't worked at a level which I have worked before, and who are also in a different age group. He didn't say it specifically, but he did mention some of his concerns, and he wanted to know my reaction." (Transcript, p. 147.)

(e) "A: He said 'how will you be able to adjust to--with junior level technicians who haven't worked at the same level at which you have and they might not have the same kind of interest that you have because of your past experience and your maturity.'"

Q: And what did you say to him?

A: Well, I told him I hadn't any difficulty. I had been working in India with different age groups, with different family backgrounds, ethnic backgrounds, educational backgrounds. I had been working in areas where those people didn't understand my language, I didn't understand their language, and in Canada, too, I had been working at a place where there are people of all ages and different nationalities. I hadn't any problem in adjusting to the situation, so I don't think that there will be any problem. (Transcript, p. 148.)

(f) "Q: And can you tell me what his demeanour was throughout the interview?

A: Well, it went in a business-like manner, and I was pleased with it, the way it went, because I thought whatever concerns he might be having, they might have been fully satisfied

by my answers." (Transcript, p. 149.)

In cross examination, Mr. Bains testified:

"Q: Now, was there anything else that Mr. Stafford spoke about that made you suspicious?

A: Like what?

Q: Well, I'm just asking you, at the interview?

Let me clarify, I'm sorry if I have not been clear: made you suspicious that he may have been discriminating against you?

A: Anything else?

Q: M'hm.

A: No.

Q: So it was just what you thought was an over-concern in you moving to the area and working with people at a level that may have been below the level at which you had previously worked in India?

A: Well, and age.

Q: And age. He never used the word 'age,' did he?

A: Pardon?

Q: He never used the word 'age,' did he?

A: No.

Q: That was a conclusion you drew?

A: No, he said: 'You are much maturer than the people you will be working with.'

Q: M'hm, which is true?

A: That's true." (Transcript, p. 171-2).

If I accept Mr. Bain's evidence completely, Mr. Stafford said something in the interview concerning maturity, junior level, junior technician or age. But (a) given the variety of formulations in Mr. Bain's evidence and (b) Mr. Stafford's denial:

"Q: And his hobbies? Now, did you...you were aware that Mr. Bains was older than the other applicants?

A: Yes.

Q: Did you ask any questions of Mr. Bains bearing on his age?

A: Not that I can recall.

Q: Did you ask any questions of Mr. Bains on whether he would have difficulty adjusting?

A: No, I did not.

Q: Did you have any concerns in that regard?

A: Not really.

Q: Well, did you have any concerns?

A: No I didn't.

Q: Did you ask him any questions about how he would like working with a group of junior technicians?

A: No, I didn't.

Q: Did you ask him any questions about working with persons of a different job experience level?

A: No." (Transcript; Volume 3, p. 145-46).

Keeping in mind the onus on the Commission, this evidence is insufficient for me to find that any comment was made by

Mr. Stafford during the interview which would warrant drawing an inference of an intention to discriminate against Mr. Bains because of his age. Rather, it seems more likely that there was general discussion concerning the relative seniority of the specific position available in the Field Technologist hierarchy at Bruce, and perhaps also some concern expressed about Mr. Bains adaption to living in a camp environment with younger men. The latter concern, while paternalistic and perhaps clumsily expressed, I find did not represent any discriminatory attitude on the part of Mr. Stafford against an older applicant, but rather a sincere but awkward effort to fulfil his interview mandate which included questions about how a new employee would adjust to relocation to Bruce.

(3) The marks on Bains's application form

As mentioned previously, two copies of Mr. Bains's completed Ontario Hydro Application for Employment Forms were before me as exhibits. On Form A, the year in the Date of Birth box is underlined. On Form B, the year of birth is circled and two lines extend from the circle under the adjacent boxes dealing with "height" and "weight."

It is common ground that these marks were put on the forms by Mr. Wallis. The Commission asks me to draw an inference of an intention to discriminate from these potentially suspicious circumstances.

The evidence established that these marks were made by Charles Wallis, the Quality Control Supervisor of Welding, who interviewed all the applicants for the particular positions available at Bruce. I had the advantage of having before me as Exhibits the application forms submitted by the other eleven applicants. Mr. Wallis testified that it was his practice to review application forms prior to the formal interview "...and mark points that I feel I should bring up during the interview." (Transcript; Volume II; p. 115).

The first point to be noted about the marks is that the marks were not confined to the year of birth; on Mr. Bains's initial application, I find the words "assembling valves" also underlined. On the second application form, where year of birth is circled, I find Mr. Bains's grades also circled and his prior employer and work experience underlined. Other circles and lines refer to hobbies and to the name of a referee which Mr. Bains had provided.

Nor did Mr. Wallis confine his markings to Mr. Bains's form. Most, if not all, of the eleven other application forms bear similar circles and lines highlighting points which Mr. Wallis wished to review in the interview (see, for example, the forms of Kelly, Law and Stewart; Exhibits 11, 12, and 13). Wallis testified that some points he circled or outlined were aspects of the candidate that might be relevant to job performance; others were intended as an *aide memoire* so that points would not be forgotten during the actual interview.

In his testimony, Mr. Wallis explained why he had highlighted each of these items for further discussion with Mr. Bains during the interview. On the highlighting of year of birth, his answer was: "Well, it was a concern on my part. I felt that looking through his past experience that he was taking quite a change in vocation, and I thought that I could ascertain why during the course of the interview by asking him about his previous jobs." (Transcript; Volume II; p. 118).

Although Mr. Wallis was cross-examined at length on this point (Transcript; Volume III; p. 15 ff.), in my opinion he was not shaken on the assertion that he circled the date of birth because, in his mind, it was linked to the career change.

In examination-in-chief, Mr. Wallis categorically denied that age played any part in his decision to prefer Mr. Gustin and Mr. Kelly over Mr. Bains for the two available positions; on a full review of cross-examination, I have concluded that this denial was also not shaken. When asked repeatedly if Mr. Bains's age was not a concern to him, the gist of Mr. Wallis's answers throughout were that what was of concern to him was that Mr. Bains was making a substantial career change. I observed Mr. Wallis very carefully as he gave his evidence subject to cross-examination, and I believe him.

Unquestionably, the marks on the Application Form quite properly excited the suspicions of the human rights investigating officer. Indeed, they are suspicious. But, having carefully

weighed Mr. Wallis's explanation as to how and why they got there, I am not satisfied, on a balance of probabilities, that these marks are indicative of an intention to discriminate against Mr. Bains.

(4) The choice of Kelly over Bains

Mr. Wallis and Mr. Stafford conducted separate interviews of all eleven applicants; after all interviews were concluded they met to make their final selection. The evidence is clear that, while ideally the successful candidate would be a joint selection, it was Mr. Wallis whose opinion would prevail in the event of conflict. Mr. Wallis had conducted the detailed technical interviews with each applicant and he had kept handwritten notes of their responses. After the interviews, he had assigned each applicant a score out of ten on technical proficiency.

Clearly, Robert Gustin was the superior candidate; he received a technical proficiency score of 8+. Accordingly, the decision was jointly made to offer Gustin a job.

That left one job open. The next highest technical proficiency score was John Vanderheyden with 7. Vanderheyden was Wallis's "second choice" but Glen Stafford had serious reservations about Vanderheyden. Stafford's handwritten interview notes contained derogatory comments about

Mr. Vanderheyden's volubility and conclude: "I would not recommend John for this opening." (Exhibit 16). While Mr. Wallis might have pressed Vanderheyden's technical proficiency despite Mr. Stafford's objections, he did not do so. Instead, they looked to the next highest technical proficiency rating.

The next highest technical proficiency rating was 6½, and three individuals were so rated: Robert Champagne, Leonard Kelly, and the complainant, Mohan Bains. Mr. Champagne was eliminated from the running because Mr. Wallis considered him "too soft" and better suited to an office or laboratory position than a field position.

Leonard Kelly, who received the same technical rating as Mr. Bains, was offered the second position. So that the crux of the case really is whether or not the evidence shows that in preferring Kelly to Bains the respondent was influenced by considerations of age.

Several specific points of comparison should be noted:

(1) Technical proficiency: Kelly and Bains received identical technical ratings of 6½.

(2) Handwritten comments: At the conclusion of his handwritten notes, Mr. Wallis has a general comment on both applicants as follows: "Kelly: strong on mechanical and welding practice. Poor on terminology of NDT (non-destructive testing)." (Exhibit 4).

"Bains: Knowledgeable. Difficult to understand."

Either Mr. Stafford did not keep handwritten notes of his interview with Kelly or they were unavailable. He did, however, keep notes of his interview with Bains. And those notes contain this statement: "I had some difficulty understanding Mohan."

(3) Past experience: Kelly had little significant work experience. Bains, on the other hand, had held several responsible jobs but, for the most part, Mr. Wallis did not regard the type of work Bains had done as relevant to the Field Technician position at Ontario Hydro. Nevertheless, simply because he had past experience, Mr. Wallis considered Bains slightly more qualified than Kelly on this criteria.

(4) Schooling: Both men were graduates of the same course at the same community college. Obviously, the only objective basis of comparison here was grades. Len Kelly had a B-B+ average; Bains had an A average. On this criterion, Bains would have been the preferable candidate.

(5) Written communication: The only basis for assessing applicants' written communication skills was the application form and supporting documents. In Mr. Wallis's opinion, Kelly's application was slightly neater than Mr. Bains but both were legible and understandable.

If one stops at this point, Bains would appear to be a slightly preferable candidate and Mr. Wallis frankly conceded that. He had better grades, more past experience, and equal

technical ability.

Of course, the simple fact that a candidate who, on detailed scrutiny three years after the event, appears to be slightly better qualified and yet was not selected, is not, of itself, proof that that particular candidate was the victim of discrimination. Hiring is an inexact process and perfection is unattainable. A hiring decision which, in retrospect, appears to be wrong, may be so without being discriminatory. There is a necessary element of artificiality involved in compelling a personnel officer, three years after a hiring decision, to break down each component of that decision, isolate and analyse it, as though it were an algebraic equation. Hiring is inevitably subjective. However, I digress, for that is not the case here as two other factors went into the final decision.

(6) Oral communication: As I have already noted, both Mr. Wallis and Mr. Stafford made notes at the time concerning their difficulty understanding Mr. Bains. Both testified at length on this and both characterized the difficulty as one of "mumbling" not accent. Mr. Wallis regarded the ability to communicate orally with co-workers as a very important consideration. Mr. Stafford testified that Bains "oral communication problem was a factor in the final selection of Kelly over Bains."

Having heard Mr. Bains testify, I understand the difficulty both Mr. Stafford and Mr. Wallis experienced. In my opinion, the problem originates not in accent but in a combination of a very low speaking voice and a tendency to mumble.

Mr. Wallis testified that oral communication skills were the decisive factor in tipping the scales in favour of Kelly over Bains.

(7) Personal suitability: This was the most subjective of all factors. Mr. Wallis testified that he was impressed by Mr. Kelly's drive and enthusiasm, but that he also considered Mr. Bains to be hard-working.

There was little, if anything, to choose between the two applicants on this criterion.

If the evidence showed that in choosing Leonard Kelly over Mohan Bains, Ontario Hydro had selected a less qualified applicant in preference to a more qualified applicant, this would call for an explanation from Ontario Hydro--an explanation at least equally consistent with non-discrimination as with discrimination. Otherwise a Board of Inquiry might (and I emphasize might since, as I have indicated earlier, a hiring decision could be insupportable in retrospect or just plain wrong, without being discriminatory) draw an inference of discrimination.

But in the instance case, it has not been shown that Bains was more qualified than Kelly and so no proper inference can be drawn from the outcome of the selection process.

To summarize my conclusions on the four pieces of evidence on which the Commission relied to prove age discrimination:

(1) Sequence of interviews

I find no evidence of discrimination in the fact that Bains was interviewed third rather than first or second. Nor was he actually disadvantaged by this, since Leonard Kelly was selected from the same interview group as the complainant.

(2) Glen Stafford's comments

Whatever Glen Stafford did or did not say in the interview (and there is conflicting evidence on that) I find that age did not play a part in his input into the decision not to hire Mohan Bains.

(3) The marks on the application form

The fact that Mr. Wallis highlighted Bains's date of birth on the application form is a suspicious circumstance. I gave this anxious consideration. However, I also considered (a) that similar marks adorned most of the other application forms--although none on the date of birth; (b) Mr. Wallis's explanation (*supra*); (c) my favourable assessment of Mr. Wallis's credibility; and (d) the ease with which Mr. Wallis could have discriminated against Mr. Bains--had that been his motive--by simply assigning him a lower technical rating (say, 6) thus making the selection of Mr. Kelly over Mr. Bains appear to be objectively based. That Mr. Wallis did not do this, and that he described Mr. Bains in his handwritten notes made at the time as "knowledgeable, suggests to me that he did not regard Mr. Bains as someone he did not wish to hire because of his age, but rather as a

legitimate contender for employment, albeit one who, because of oral communication difficulties, ultimately came second to Mr. Kelly.

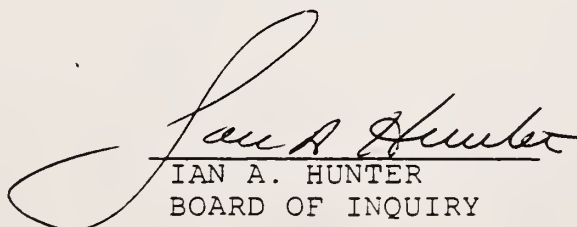
In any event, I do not find this suspicious circumstance standing alone sufficient to discharge the onus of proving that Ontario Hydro discriminated against Mohan Bains because of his age.

(4) The selection of Mr. Kelly over Bains

I find that both candidates were similarly assessed and evaluated. The choice of Kelly over Bains was due, I find, to Mr. Wallis's and Mr. Stafford's perception of Mr. Bains's oral communication difficulties not to his age. Even if they gave oral communications skills more weight in the final decision than it deserved, that would be an error of judgment on their part but not discrimination.

For all of the foregoing reasons, the complaint of Mohan Bains is dismissed.

DATED at the City of London in the County of Middlesex
this 6th day of August, 1982.


IAN A. HUNTER
BOARD OF INQUIRY

